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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

CAPANA SWISS ADVISORS AG, a Swiss
corporation; AMERIMARK AUTOMOTIVE
AG, a Swiss corporation,

Plaintiffs,

vs.

RYMARK, INC., a Utah corporation;
NICHOLAS THAYNE MARKOSIAN, an
individual; JOHN KIRKLAND, an individual;
and VICKY SMALL, an individual,

Defendants.

RYMARK, INC., a Utah corporation; and
NICHOLAS THAYNE MARKOSIAN, an
individual,

Counter Claimants,

vs.

CAP ANA SWISS ADVISORS AG, a Swiss
corporation, and Amerimark Automotive AG,
a Swiss Corporation,

Counter Defendants.

RYMARK, INC., a Utah corporation; and

**DECLARATION OF
CHAD S. PEHRSON IN SUPPORT OF
DEFENDANTS' MOTION FOR
LIMITED EXTENSION OF FACT
DISCOVERY**

Case No.: 2:23-cv-00467

Judge: Ted Stewart
Magistrate Judge: Cecilia M. Romero

NICHOLAS THAYNE MARKOSIAN, an individual,

Third-Party Plaintiffs,

vs.

SHAEN BERNHARDT, an individual;
ASHLEY MIRON LESHEM, an individual;
DAVID HESTERMAN, an individual;
NICOLAI COLSHORN, an individual;
STEFAN KAMMERLANDER, an individual;
ALEXANDER COENEN, an individual;
MARTIN FASSER HEEG, an individual;
AMERIMARK GROUP AG, a Swiss corporation; and PHILOMAXCAP AG, a German corporation,

Third-Party Defendants.

I, Chad S. Pehrson, declare as follows:

1. I am over 18 years of age and am fully competent to make this declaration. I am counsel to Defendants and Counterclaimants Rymark, Inc. (“**Rymark**”), Nicholas Markosian, John Kirkland, and Vicky Small (collectively “**Defendants**”). I have personal knowledge of the matters set forth below or have obtained knowledge from my review of the file. I make this declaration in support of Defendants’ motion for a limited extension of fact discovery (the “**Motion**”).

2. As Rymark explained in its motion for an extension of time to serve Third-Party Defendant Ashley Miron Leshem, [Dkt. 183](#), and as I explained in my declaration supporting that motion, [Dkt. 183-1](#), Mr. Leshem managed to evade service of Rymark’s Third-Party Complaint for some time. On January 13, 2025, however, Rymark successfully served Mr. Leshem in Boca Raton, Florida. The return of service has been filed on the docket.

3. Service on Mr. Leshem was effected only after extensive – and costly – surveillance. I am informed by the professionals Rymark hired to serve Mr. Leshem that eventually, they were required to install a 24-hour camera outside Mr. Leshem’s residence to determine when he left his Mother’s home. They eventually tracked him down at his gym.

4. Prior to successful service on Mr. Leshem, Plaintiffs notified me on December 30, 2024 that they would take Mr. Leshem’s remote deposition on January 16. When I examined the deposition subpoena, I was surprised to see that Mr. Leshem was apparently represented by a lawyer: Andrew Peretz. I contacted Mr. Peretz that same day to ask if he would accept service of the Third-Party Complaint on Mr. Leshem. Mr. Peretz responded on January 3 to say that he was “not authorized to accept service.”

5. Plaintiff Capana Swiss Advisors AG’s owner, Shaen Bernhardt, was deposed in this action on September 4, 2024. Mr. Bernhardt testified at deposition that he had had “conversations” with Mr. Leshem “since the beginning of this litigation,” and that Mr. Leshem had been “a very good resource for information” for Mr. Bernhardt. A true and correct copy of relevant portions of Mr. Bernhardt’s deposition transcription is attached hereto as **Exhibit A**. In addition, Capana’s privilege log contains many entries including Mr. Leshem – both before and after this litigation was commenced. That log was filed on the docket at Dkt. [201-2](#).

I declare the foregoing to be true and correct under penalty of perjury under the laws of the United States

Executed on January 15, 2024, in Salt Lake City, Utah.

By: /s/Chad S. Pehrson
Chad S. Pehrson

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of January, I filed the foregoing **DECLARATION OF CHAD S. PEHRSON IN SUPPORT OF DEFENDANTS' MOTION FOR LIMITED EXTENSION OF FACT DISCOVERY** via the Court's CM/ECF system, which provided notice of such filing to all counsel of records.

/s/Chad S. Pehrson